

**Minutes of a Special Session of the Common Council of the Town of Clarkdale  
Held on Tuesday, September 24, 2019 at 3:00 P.M.**

A Special Meeting of the Common Council of the Town of Clarkdale was held on Tuesday, September 24, 2019, at 3:00 P.M. in the Clark Memorial Clubhouse, Men's Lounge, 19 N. Ninth Street, Clarkdale, Arizona.

**CALL TO ORDER – Meeting was called to order at 2:59 P.M. by Mayor Von Gausig.**

Town Council:

Mayor Doug Von Gausig  
Vice Mayor Richard Dehnert  
Councilmember Scott Buckley

Councilmember Bill Regner  
Councilmember Debbie Hunseder

Town Staff:

Town Manager Tracie Hlavinka  
Finance Director Kathy Cwiok  
Finance Manager Brittany Earles  
Public Works/Utilities Director Maher Hazine  
Community Services Supervisor Joni Westcott  
Police Chief Randy Taylor

**PUBLIC COMMENT** – The Town Council invites the public to provide comments at this time. Members of the Council may not discuss items that are not specifically identified on the agenda. Therefore, pursuant to A.R.S. §38-431.01(G), action taken as a result of public comment will be limited to directing staff to study the matter, responding to any criticism or scheduling the matter for further consideration and decision at a later date. Persons interested in making a comment on a specific agenda item are asked to complete a brief form and submit it to the Town Clerk during the meeting. Each speaker is asked to limit their comments to five minutes.

**There was no public comment.**

**CONSENT AGENDA** - The consent agenda portion of the agenda is a means of expediting routine matters that must be acted on by the Council. All items are approved with one motion. Any items may be removed for discussion at the request of any Council Member.

- A. Reports** - Approval of written Reports from Town Departments and Other Agencies
- Building Permit Report – July, 2019
  - Capital Improvements Report – July, August 2019
  - Magistrate Court Report – June, July, August 2019
  - Water and Wastewater Report – July, August 2019
  - Police Department Report – July, August 2019
  - Special Event Liquor License Recommendations made by Clarkdale Police Department: Red Rock Hemp Festival 9/21/19; Clarktoberfest 10/5/2019; Holiday Gala 12/14/19
  - CAT/LYNX Transit Report – July, August 2019

## Verde Valley Humane Society Report – June, July, August 2019

- B. Domestic Violence Awareness Proclamation** – Approval of a Proclamation naming October as Domestic Violence Awareness Month, recognizing individuals and organizations who provide critical advocacy, services, and assistance to victims
- C. Governor’s Office of Highway Safety DUI Impaired Driving Enforcement Grant** - Acceptance of non-match, Governor’s Office of Highway Safety federal grant totaling \$6,000 from October 1, 2019 to September 30, 2020.
- D. Governor’s Office of Highway Safety STEP Enforcement Grant** - Acceptance of non-match, Governor’s Office of Highway Safety federal grant totaling \$19,361.00 from October 1, 2019 to September 30, 2020.
- E. Amendment to the Intergovernmental Agreement Between the Town of Clarkdale and the State of Arizona** – Approval of Amendment One to the IGA involving work on the Overlay of Broadway Road.

**Action: Approve Consent Agenda items A – F as presented.**

**Motion: Vice Mayor Dehnert**

**Second: Councilmember Hunseder**

**Vote:**

Voting Member	Aye/Nay
Council Member Scott Buckley	Aye
Vice Mayor Richard Dehnert	Aye
Council Member Debbie Hunseder	Aye
Council Member Bill Regner	Aye
Mayor Doug Von Gausig	Aye

## **NEW BUSINESS**

**HISTORIC PRESERVATION STRATEGIES** - A presentation by Kimber Lanning of Local First Arizona regarding strategies for historic preservation.

Kimber Lanning is the founder of Local First Arizona and the Local First Arizona Foundation, two distinct statewide organizations working in tandem to strengthen Arizona’s economy. Lanning is an entrepreneur, business leader and community development specialist who works to cultivate strong self-reliant communities and inspire a higher quality of life for people across Arizona. Her passions, which are seen throughout her work, include fostering cultural diversity and inclusion, economic resilience and responsible growth for Arizona.

Lanning has grown Local First Arizona into a widely respected organization that is leading the nation in implementing systems and policies to ensure a level playing field for entrepreneurial endeavors of all sizes. With nearly 3,000 business members and four statewide offices, Lanning leads a team of 17 who work on a diverse array of programs ranging from healthy local food

access, entrepreneurial development in underserved communities, and rural community development, each of which plays a part in building sustainable and resilient local economies. (<http://www.localfirstaz.com/about/kimber-lanning/>)

Ms. Lanning's presentation to the Council will focus on:

- The nexus between Historic Preservation and Economic Development
- City planning and policies that support adaptive re-use
- Perspectives on Clarkdale's unique historic built environment

**This is discussion only, no action is required.**

After a brief recess, Mayor Von Gausig re-convened the meeting.

**VERDE RIVER ACCESS NON-EXCLUSIVE LEASE AGREEMENT** - Discussion and possible action regarding a Non-Exclusive lease agreement for Verde River Access with Freeport Minerals Corporation.

The Town of Clarkdale has had an executed License Agreement with FMC since 2013. This agreement includes:

Uses of Premises – The Town may use the Premises for:

- Development of access drives, parking and trail facilities, restrooms, fencing, modest shade structures, solar energy installation, and other facilities necessary or reasonably desirable for a day-use recreational facility;
- Residences of a limited number of site hosts, who would reside in mobile units (e.g. recreational vehicles) brought to the Premises and maintained in a good condition that allows it to be removed from the Premises with short notice;
- Special Public Events or overnight camping for groups who have secured the use through a Special Event Permit;
- Town will cooperate to the extent practicable with FMC's plans to develop and implement a natural resource education component in the design and development of the Premises, with the goal of certifying the Premises through an appropriate Wildlife Habitat Council program, such as "Wildlife at Work" or "Corporate Lands for Learning."

Since the origin of the original License Agreement, a few revisions have been made to the agreement. One is the inclusion of the Master Plan Improvements as a part of the agreement. This addition allows the Town to make improvements at the Lower TAPCO River Access Point according to the Master Plan that was adopted by the Clarkdale Town Council on December 9, 2014, without additional review and approval from FMC.

In addition to the insertion of the Master Plan Improvements, the License Agreement has been renamed as a Non-Exclusive Lease. The reason for this revision being, Yavapai County is assisting with the construction of two (2) ramadas at the Lower TAPCO River Access Point in accordance with the Master Plan Improvements. These ramadas will be constructed in cooperation with the Town of Clarkdale. Since FMC has an agreement with the Town of Clarkdale to utilize the area as a "Public Park", Yavapai County is allowed to assist with the construction under A.R.S 11-932 qualifying Lower TAPCO as a "public park."

According to A.R.S 11-932 pertaining to the acquisition of property for park purposes; dedication; eminent domain; authority to make improvements:

- A. Notwithstanding the ten-year limitation prescribed in section 11-256, a county or municipality may purchase, enter into contracts to purchase, acquire by lease or sublease and lease or sublet for any term, or obtain by gift or accept by grant from the United States or other governmental agency real property, within or without its territorial limits, and may hold, maintain and improve it for the use and purpose of a public park, and it may dedicate property already owned to a like purpose. A county or municipality may enter into contracts for any term for the operation of any such public parks. A county or municipality may expend public funds for improvements on lands dedicated, or acquired by lease or sublease for any term, or by agreement or contract of purchase, under the provisions of this section.*
- B. This section shall not affect the right of a county or municipality to acquire property by proceedings in eminent domain.*

The changing of this License Agreement to a Non-Exclusive Lease Agreement provides the necessary language to allow Yavapai County to assist with the construction of the ramadas. The Town of Clarkdale has worked with Yavapai County, FMC and the Town Attorney to make the necessary revisions to the original License Agreement.

Town Manager Tracie Hlavinka presented information on this agenda item to the Council. Council discussion followed regarding future projects and improvements.

**Action: Approve the Verde River Access Non-Exclusive Lease between Freeport McMoRan Corporation and the Town of Clarkdale for the Tapco River Access Point.**

**Motion: Councilmember Regner**

**Second: Councilmember Buckley**

**Vote:**

Voting Member	Aye/Nay
Council Member Scott Buckley	Aye
Vice Mayor Richard Dehnert	Aye
Council Member Debbie Hunseder	Aye
Council Member Bill Regner	Aye
Mayor Doug Von Gausig	Aye

**WORK SESSION ON FOOD FOR HOME CONSUMPTION** - Discussion regarding a current sales tax item for food for home consumption.

In 2001, the Town Council adopted Ordinance 234 regarding amendments to the Tax Code. This amendment changed the language in the Tax Code from referencing food stamps to food for home consumption. The amendment can be found in the Tax Code under Section 8A-2-465 (q) and reads as such:

**Sec. 8A-2-465. Retail sales: exemptions.**

*Income derived from the following sources is exempt from the tax imposed by Section 14-460:  
(q) sales of food for home consumption.*

The Town staff provided documentation confirming adoption of the 2001 Ordinance to the DOR. In 2017 we started using the City of Phoenix's Business Intelligence System (BI), a comprehensive data management system for TPT taxes paid to the DOR. After reviewing reports from this system, it became clear that a tax on food for home consumption was being collected. This conflicts with the Town's 2001 ordinance not to collect sales tax for food for home consumption.

Town staff began trying to rectify this matter in May of 2019. Several emails were sent to the DOR requesting an explanation of the situation. In July of 2019, DOR informed the Town of the options available to rectify the situation:

- An ordinance allowing for the collection of tax on food for home consumption; or
- the Town could send DOR a letter with the original ordinance ceasing collection of the tax.

It is important to note, over the last six (6) years, the Town has received revenue from this TPT collection of over \$49,000, an average of \$8,000 a year. A portion of the revenue paid has come from online distributors, with the largest contributor being a local retailer. The DOR has confirmed the only way they will return any sales tax would be if a business requests the funds in written form. It has also been confirmed that the return would go to the business entity and not to the consumer that paid the tax.

Staff has also conducted a study of the neighboring communities regarding collection of this TPT tax. The results are below:

COMMUNITY	COLLECT FOR HOME CONSUMPTION	TAX RATE
Camp Verde	No	N/A
Chino Valley	Yes	4.00%
Cottonwood	Yes	3.50%
Dewey-Humboldt	Yes	2.00%
Flagstaff	No	N/A
Jerome	No	N/A
Prescott	Yes	2.75%
Prescott Valley	Yes	2.83%
Sedona	No	N/A

Note: DOR has explained there was an administrative error on the their part. The DOR has expressed a willingness to correct the issue in the event the Town Council decides to remain with the current ordinance in place. The DOR would be responsible for making any reimbursements back to the businesses, should they request reimbursement of the TPT. The DOR would deduct those reimbursements from the Town's TPT revenue before distributing to the Town.

This tax rate is not currently in the Town Tax Table; therefore, staff is requesting direction on moving forward with either starting the process to have a new ordinance drafted to provide for the collection of sales taxes on food for home consumption or having the DOR correct the current tax table administratively.

Town Manager Hlavinka presented this information to Council. Discussion followed and it was clarified that there may be liability to the Town whether or not an ordinance is enacted. Further discussion included some members of the Council expressing aversion to taxing food for home consumption as well as aversion to repaying collected tax to a business that would not be required to return the tax to the consumers who paid it.

Council directed staff to explore legal options via a minimal consultation with Town Attorney for an opinion, see what other options may be available to us that have not yet been discussed, and if there are no other feasible solutions, come back to Council with an ordinance making the change, at least temporarily. Staff should seek information that would uncover whether other communities are facing this same type of issue.

**This is a work session only and no Council action is required.**

**SUSTAINABLE STREETS PRESERVATION AND MAINTENANCE PROGRAM FY 2019/2020** – Discussion and possible action to authorize the Public Works-Utilities Director/Town Engineer to proceed with implementation of the FY 2019/2020 Sustainable Streets Preservation and Maintenance Program.

On April 9, 2019 the Mayor and Council directed the Public Works – Utilities Department to move forward with a proposed Priority Based Plan to achieve a sustainable Pavement Management Program. This plan essentially assigns roadway repair priority decisions with a volume-based approach (those publicly maintained roads with higher traffic volume would receive the highest priority). Within these higher volume roads, pavement condition would then be utilized as a secondary factor. However, maintenance for safe operation would be a major consideration in determining approach to pavement management, e.g, potholes, etc.

The Public Works – Utilities Department has RoadBotics, an interactive tool, that uses artificial intelligence to provide data driven decisions. This allows the Public Works – Utilities Department to make a more objective decision on road conditions.

Based on our findings, staff recommends that the following roads be implemented as part of the FY 2019/2020 Sustainable Streets Preservation and Maintenance Program:

1. Main Street from approximately 495-feet West of Broadway to Cement Plant Road. Treatment will be rubber-coated chip seal (low volume).
2. Old Jerome Highway from Reta Street to Black Hills Drive. Treatment will be crack sealing with a protective overlay.
3. Clarkdale Parkway from 89 A/Cement Plant Road to Sunset Blvd. Treatment will be crack sealing with a protective overlay.

Additionally, the above projects will be striped to allow for bike lanes.

Utilities-Public Works Director Maher Hazine presented information on this agenda items to Council.

**Action: Authorize the Public Works-Utilities Director/Town Engineer to proceed with implementation of the FY 2019/2020 Sustainable Streets Preservation and Maintenance Program. This includes the authority to advertise and award contracts within the approved budget.**

**Motion: Vice Mayor Dehnert**

**Second: Councilmember Hunseder**

**Vote:**

Voting Member	Aye/Nay
Council Member Scott Buckley	Aye
Vice Mayor Richard Dehnert	Aye
Council Member Debbie Hunseder	Aye
Council Member Bill Regner	Aye
Mayor Doug Von Gausig	Aye

#### **RESOLUTION MAKING APPOINTMENTS TO THE PLANNING COMMISSION**

– Discussion and possible action regarding the approval Resolution # 1610, amending Resolution # 1591 making appointments to the Planning Commission.

The Planning Commission has three (3) expiring terms as of September 30, 2019. The Review Committee conducted interviews August 28, 29 and September 4 in order to make recommendations to the Council to fill these seats.

In total, nineteen applications were submitted for all Boards and Commissions. One applicant applied after the deadline for this interview cycle. Three applicants withdrew prior to the interviews. Nine incumbents reapplied and one current member of one Board applied for a seat on a different Commission. This left five applicants who were new to this process. The applicants were very impressive and many were well-qualified to serve.

The panel is bringing forward the following names as recommendations to fill the seats on the Planning Commission with terms expiring September 30, 2021:

Ben Kramer  
Laura Jones  
Jorge Olguin

**Action: Approval of Resolution #1610, amending Resolution #1591, making appointments of Ben Kramer, Jorge Olguin and Laura Jones to the Planning Commission.**

**Motion: Councilmember Regner**

**Second: Councilmember Hunseder**

Discussion followed thanking John Erickson for his service to the Town and the Planning Commission.

**Vote:**

Voting Member	Aye/Nay
Council Member Scott Buckley	Aye
Vice Mayor Richard Dehnert	Aye
Council Member Debbie Hunseder	Aye
Council Member Bill Regner	Aye
Mayor Doug Von Gausig	Aye

**RESOLUTION MAKING APPOINTMENT TO THE PUBLIC SAFETY PERSONNEL RETIREMENT BOARD** – Discussion and possible action regarding the approval of Resolution # 1611, amending Resolution # 1585 making an appointment to the Public Safety Personnel Retirement Board.

There was one opening for a Citizen Member of the Public Safety Personnel Retirement Board. The panel has put forward its recommendation that incumbent Tommy Nester be appointed to the Public Safety Personnel Retirement Board with a term expiring September 30, 2021.

In addition, the secret ballot for the Police Officer Member position of the PSPRS Local Board was held and Officer Sean Guth was elected by his peers for the term October 1, 2019 to September 30, 2021.

**Action: Approval of Resolution #1611, amending Resolution #1585, making an appointment of Tommy Nester to the Public Safety Personnel Retirement Board**

**Motion: Vice Mayor Dehnert**

**Second: Councilmember Buckley**

**Vote:**

Voting Member	Aye/Nay
Council Member Scott Buckley	Aye
Vice Mayor Richard Dehnert	Aye
Council Member Debbie Hunseder	Aye
Council Member Bill Regner	Aye
Mayor Doug Von Gausig	Aye

**RESOLUTION MAKING APPOINTMENTS TO THE PARKS AND RECREATION COMMISSION** – Approval of Resolution # 1612 amending Resolution # 1583 making appointments to the Parks and Recreation Commission.

The Parks and Recreation Commission has three available seats due to two terms expiring on September 30, 2019 and one vacancy.

In total, nineteen applications were submitted for all Boards and Commissions. One applicant applied after the deadline for this interview cycle. Three applicants withdrew prior to the interviews. Nine incumbents reapplied and one current member of one Board applied for a seat on a different Commission. This left five applicants who were new to this process. The applicants were very impressive and many were well-qualified to serve.



The panel put forward their recommendation that Cynthia Malla, Marney Babbitt, and Cheryl Kessel be appointed for two-year terms on the Parks and Recreation Commission with terms expiring September 30, 2021.

**Action: Approval of Resolution #1612, amending Resolution #1583, making appointments of Cynthia Malla, Marney Babbitt, and Cheryl Kessel to the Parks and Recreation Commission.**

**Motion: Councilmember Hunseder**

**Second: Councilmember Buckley**

**Vote:**

Voting Member	Aye/Nay
Council Member Scott Buckley	Aye
Vice Mayor Richard Dehnert	Aye
Council Member Debbie Hunseder	Aye
Council Member Bill Regner	Aye
Mayor Doug Von Gausig	Aye

## **RESOLUTION MAKING APPOINTMENTS TO THE DESIGN REVIEW BOARD**

– Approval of Resolution # 1613 amending Resolution # 1592, making appointments to the Design Review Board.

The Design Review Board has three terms expiring September 30, 2019. In addition, the Chair, Laura Jones, has been recommended to the Council for the Planning Commission. Ms. Jones's term on the Design Review Board does not expire until September 30, 2020, leaving one 1-year position available.

The Review Committee put forward their recommendation that Michael Pierce, Robyn Prud'homme-Bauer and Linsey Branam be appointed for two-year terms on the Design Review Board and that Matthew Kaempfe be appointed to fill the one-year term vacated by Laura Jones, pending Council approval of her appointment to the Planning Commission.

**Action: Approval of Resolution #1613, amending Resolution #1592, making appointments of Michael Pierce, Robyn Prud'homme-Bauer, Linsey Branam and Matthew Kaempfe to the Design Review Board.**

**Motion: Councilmember Regner**

**Second: Councilmember Buckley**

Discussion followed and Council thanked Mike Garvey for his service to Clarkdale and to the Design Review Board.

**Vote:**

Voting Member	Aye/Nay
Council Member Scott Buckley	Aye
Vice Mayor Richard Dehnert	Aye
Council Member Debbie Hunseder	Aye
Council Member Bill Regner	Aye
Mayor Doug Von Gausig	Aye

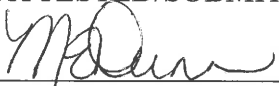
**FUTURE AGENDA ITEMS** - Listing of items to be placed on a future council agenda.

**ADJOURNMENT:** Without objection Mayor Doug Von Gausig adjourned the meeting at 5:20 P.M.

APPROVED:

  
\_\_\_\_\_  
Doug Von Gausig, Mayor

ATTESTED/SUBMITTED:

  
\_\_\_\_\_  
Mary Ellen Dunn, Town Clerk

CERTIFICATION

I hereby certify that the foregoing minutes are a true and correct copy of the minutes of the regular meeting of the Town Council of the Town of Clarkdale, Arizona held on the 24<sup>th</sup> day of September, 2019. I further certify that meeting was duly called and held and that a quorum was present.

Dated this 22<sup>nd</sup> day of October, 2019.

SEAL

  
\_\_\_\_\_  
Mary Ellen Dunn, Town Clerk